

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12128 of 2014

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Mohammad Ashraf, son of late Saffuddin, resident of village Bhikhachak,
Police Station Belaganj, District Gaya

... .. Petitioner

Versus

1. The State Of Bihar
2. The Principal Secretary, Department of Health and Family Welfare,
Government of Bihar, Patna
3. The Director in chief, Department of Health and Family welfare, Government
of Bihar, Patna
4. The Civil Surgeon cum Chief Medical Officer, Gaya
5. Medical officer in charge, Primary health Centre, Belganj, District Gaya

... .. Respondents

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Appearance :

For the Petitioner : Mr.Bijendra Prasad Sinha, Advocate

For the Respondents : Mr.Mithilesh Kumar Pathak, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 11-03-2019 Heard learned counsel for the petitioner as well as

learned counsel for the State.

Learned counsel for the petitioner submits that the
order whereby his service has been terminated is based on an
enquiry made by the Civil Surgeon cum Chief Medical Officer,
Gaya regarding genuineness of his certificate. He submits that
without hearing the petitioner order has been passed.

Learned counsel for the State submits that on the
application dated 16.10.2012 and after obtaining opinion of the
Government advocate from the Sessions court joining of the
petitioner was accepted subject to verification of the medical



certificate submitted by the petitioner, since veracity of the same was being examined by the authorities. Now that the Bihar School Examination Board, Patna has confirmed that the same is forged, writ petitioner cannot be heard to allege violation of principle of Natural Justice as fraud vitiates the entire selection of the petitioner.

This Court would find that adequate alternative efficacious remedy is available for the petitioner against order of Civil Surgeon cum Chief Medical Officer, Gaya dated 17.5.2013 whereby the petitioner has been terminated from the service as Basic Health Worker (BHW).

Without availing the remedy, the petitioner has rushed directly to the court. In the circumstances, this Court would observe that the petitioner should approach the Appellate Authority, namely, respondent no.3, the Director in Chief, Department of Health and Family Welfare, Government of Bihar, Patna within a period of two weeks from today. In the event, petitioner approaches the Appellate Authority within two weeks, the Appellate Authority should consider petitioner's case upon its own merit without raising the issue of delay. Final decision should be taken by the Appellate Authority by a reasoned and speaking order in accordance with law within a



period of three months thereafter.

Writ petition is disposed of.

(Madhuresh Prasad, J)

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